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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,794	08/02/2001	John F. Broker	BRO009-162	4309

7590 10/21/2005
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EXAMINER

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ART UNIT PAPER NUMBER

2173

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/919,794
Filing Date: August 02, 2001
Appellant(s): BROKER ET AL.

Everett G. Diederiks, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 1, 2005 appealing from the Office action mailed January 4, 2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on April 29, 2005 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

Appellant's brief presents arguments relating to the affidavit submitted in accordance with 37 C.F.R. 1.131. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

(7) Arguments

A separate headings of arguments are presented in the Brief.

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Appendix

Exhibit I: copy of interview summary sheet conducted on April 20, 2005.

Exhibit II: Copy of Affidavit submitted under 37 C.F.R. 1.131 (b).

(10) Grounds of Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Blair et al (US 6,502,265).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With regard to claim 1:

Similar to the present invention, Blair is directed to the art of laundry appliances, and more particularly, to a menu driven electronic interface system used in controlling the operation of a laundry appliance

Blair discloses a method of conveying information (Fig.2, 102, 104, 106 and 108) on a display screen (100) of an appliance comprising:

dividing the screen into a plurality of zones (zones 15, FIG. 2, column 3, lines 46-49);

displaying a first set of information (Figs. 2, 8A, 8B, etc., illustrate an initial operating screen set) in one of the plurality of zones; and

causing said one of the plurality of zones to become enlarged (e.g., Fig. 3A, etc., wherein selecting *Hints & Tips* from screen 100, results enlarged menu screen 110) so as to substantially, entirely encompass the screen, while automatically presenting (column 8, lines 65-67) a second set of information representing additional details (these are the sub menus of *Hints & Tips* shown in screen 110) concerning the first set of information on the screen (see also Figs. 3B-8B, etc., these Figs illustrate hierarchical display of menus)

With regard to claim 2:

Blair further also discloses presenting the first set of information in the form of codes (Fig. 6, #280, column 5, lines 58-60).

With regard to claim 3:

Blair further discloses providing the additional details to define the codes (Fig. 6, #280, column 5, lines 58-60).

With regard to claim 4:

Blair further discloses diagnostic codes presented as the first set of information (Fig. 6, #250, column 5, lines 44-50).

With regard to claim 5:

Blair also discloses that the plurality of zones is divided into substantially equally sized areas (Figs. 2, 3A, etc).

With regard to claim 6:

Blair further discloses maintaining the first and second sets of information in a hierarchical format (see successive screens displays of Figs. 3A, 3B, 4 5, etc).

With regard to claim 7:

Blair also discloses physically touching the screen to enlarge said one of the pluralities of zones (Figs. 3A, 4, etc, column 2, lines 56-64).

With regard to claims 8-14:

Claims 8-14 are also method claims corresponding to method claims 1-7, respectively. Thus, since claims 8-14 includes relevant limitations similar to those found in claims 1-7, these claims are also rejected for at least the reasons disclosed above with respect to claims 1-7, respectively.

With regard to claims 15-20:

Claims 15, 16, 17, and 18 correspond generally to claims 1, 2, 3, and 5, respectively, and recite similar features in system form, and therefore are rejected under the same rationale.

With regard to claim 19:

Blair also discloses that the screen constitutes a touch screen (Figs. 3A, 4, etc, column 2, lines 56-64).

With regard to claim 20:

Blair also discloses the appliance constitutes a laundry appliance (Abstract).

(11) Response to Argument

With regard to arguments directed to Affidavit (Rule 1.131):

The Appellant Brief presents several discussions and arguments indicating that the submitted affidavit should have been entered. Even though the appellant presents several discussions and arguments, the submitted affidavit and exhibits does not clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction of the claimed invention to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). Furthermore, determination of the sufficiency of the affidavit filed on July 20, 2004 is not subject for review by the patent Board of Appeals and Interferences. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

With regard to arguments directed to claims 1, 5, 7, 8, 12 and 14:

To begin with, the Appellant argues that the amendment submitted after Final should have been entered. The examiner submitted the reason in the *Advisory Action* mailed on May 13, 2005. During the Interview conducted on April 20, 2005, the examiner has clearly discussed that the amendment will overcome the cited art, but since the amendment requires further search and/or consideration, thus it was not entered.

When it comes to the claimed subject matter arguments of the above claims, the Appellant states "In any case, the Examiner correctly identifies that a screen in accordance with the Blair et al patent can be divided into a plurality of *Zones*." But, the Appellant argues that "however, the examiner incorrectly indicates that Figures 2, 8A, and 8B illustrate providing a "first set of information" in one of the plurality of zones which can be selected and expanded." In contrast to the Appellant argument, as shown in the above Figures, Blair does illustrate displaying a first set of information in one of the plurality of zones as claimed. The Appellant argument seems to fall or limited to a phrase in the claim (i.e., "a first set of information" or a "set",) as has been highlighted and/or underlined in the argument section. It is widely known, that a set includes zero, one or more members in the set or in the set of information and this has been illustrated in the above Figures. For example, Fig. 2, illustrates displaying a set of information (e.g., menu options, such as *hints & tips*, *select cycle*, etc) in one or more of the plurality of zones (or selectable areas). Again a "set" of information could comprise any set of information, such as a menu option information shown in each zones (selected areas) of

Fig.2 . Furthermore, the set of information also illustrates a detailed (lower or sub menus) of menu options as shown, for example, in screens 550 and 560, Fig. 8B, and in screens 570 and 580, Figs. 8C.

With regard to arguments directed to claims 2 and 9:

The Appellant argues that the “phrase “Diagnostic code” cannot be interpreted as the first set of information, with the first set of information being in the form of codes, as required by these claims. Again, in this portion of the argument the Appellant emphasizes of the phrase “set” of information in addition to “codes”. In contrast to the Appellant argument at least the diagnostic codes in screen 250 and subsequently screen 280, Fig. 6 (column 5, lines 58-60) of Blair does read on the claimed *presenting the first set of information in a form of codes (e.g., alphanumeric representations or phrase or word)*.

With regard to arguments directed to claims 3, 4, 10 and 11:

Again, the Appellant is arguing about the definition of a “set”, that is, and states “a single phrase or operating option does not meet the definition of the term “set”; and further argues “first set of information” is not seen to be a reasonable interpretation of the claim language. In contrast to the Appellant argument, a set of information comprises zero, one or more item or information in the set (e.g. see Fig. 2). In any case, Blair illustrates (for example, in screen 250 and subsequently screen 280, Fig. 6) presenting diagnostic codes as a first set of information.

With regard to arguments directed to claims 6 and 13:

The Appellant argues "the screens disclosed in Blair et al do not present analogous first and second set of information in any corresponding hierarchical format". The examiner strongly disagrees because Blair et al illustrates similar screen arrangement as the present invention, successive, subsequent or hierarchical format (see the flow of screen interaction of Figs. 3 through 7 or Figs. 8A through 8C).

With regard to arguments directed to claims 15, 18, 19, and 20:

The Appellant cites what Federal Circuit describes the appropriate method for interpretation means-plus-function claims for an anticipation rejection, and argues there is simply no teaching in the Blair et al reference to the particular structure or function of these claims. The examiner strongly disagrees because both Brier and the current invention have the same product model laundry appliance including similar interactive features as claimed in the above claims. Blair illustrates (e.g., Figs. 2, 8A, etc) presenting a first set of information in one of a plurality of zones of a display, with the one of the plurality of zones being subsequently enlarged to present a second set of information representing additional details concerning the first set of information. For example, selecting *Hints & Tips* from the first screen, screen 100, will bring the detail version of Hints & Tips menu as shown in the subsequent screen 110 (Fig. 3A). Furthermore, if the when the user selects one of the information options of screen 110, further detail information of the selected option will be shown, i.e., if Stain removal is selected from screen 110, additional information about Stain Removal will be displayed to the user as shown in screen 130, Fig. 3B.

With regard to arguments directed to claims 16:

This portion of the argument is similar to “codes” argument presented in claims 2 and 9. Thus, as given response set forth above, Blair et al disclose the first set of information that constitutes codes. For example, the first set of information can be from the first screen menu (information) options (e.g., from screen 100), and the code can be any alphanumeric code, or phrase or word representation.

With regard to arguments directed to claims 17:

This portion of the argument is similar to “codes” argument presented in claims 3 and 10. Thus, as given response set forth above, Blair et al disclose the second set of information that defines the codes. For example, the second set of information (e.g., from screen 110, Fig. 3A), can be obtained by selecting one of the menu (information) options from the first information set (screen 100, Fig. 3A), The code can be any alphanumeric code, or phrase or word representation.

(12) Related Proceeding(s) Appendix

Not Applicable.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Patent Examiner Tadesse Hailu

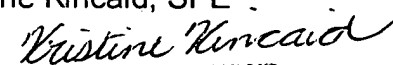
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